

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

NATALIE JOHNSON,

Plaintiff,

v.

ORDER

19-cv-760-wmc

C.R. BARD INC. and
BARD PERIPHERAL VASCULAR INC.,

Defendants.

Before the court is the parties' request for ruling on objections to certain deposition designations as to Frederick Rogers.

DEPONENT	PL AFFIRM	DEF OBJECTIONS	PL RESPONSE TO OBJECTIONS	COURT RULING
Rogers, Frederick 07/18/2017		Bard objects to Plaintiff's references to "Admitted in the Peterson case" as a basis for allowing a designation to played, or overruling an objection, and submits that the testimony should be consider based on the facts and applicable law and rulings in this case. The Peterson case involved a different filter, different claims, and was decided under different state law.		
Rogers, Frederick 07/18/2017	6:03-6:04		Admitted in Peterson	

Rogers, Frederick 07/18/2017	46:06- 46:09		Admitted in Peterson	
Rogers, Frederick 07/18/2017	46:23- 47:04	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. This case does not involve a situation where a filter was placed as a result of a trauma-related injury.	Admitted in Peterson Foundation testimony	OVERRULED
Rogers, Frederick 07/18/2017	60:22- 60:25		Admitted in Peterson	
Rogers, Frederick 07/18/2017	61:08- 61:25		Admitted in Peterson	
Rogers, Frederick 07/18/2017	101:17- 101:23	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect.	Admitted in Peterson Testimony is relevant to the risks and general lack of efficacy of the class of products at issue, including and especially the filter at issue. Defendants open the door to such testimony by presenting argument and evidence regarding the life-saving properties of their filters. Further, evidence is relevant to the jury's assessment of the benefits of the filter at issue.	OVERRULED

Rogers, Frederick 07/18/ 2017	101:25	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect.	Admitted in Peterson Testimony is relevant to the risks and general lack of efficacy of the class of products at issue, including and especially the filter at issue. Defendants open the door to such testimony by presenting argument and evidence regarding the life- saving properties of their filters. Further, evidence is relevant to the jury's assessment of the benefits of the filter at issue.	OVERRULED
Rogers, Frederick 07/18/2017	102:02- 102:07		Admitted in Peterson	
Rogers, Frederick 07/18/2017	102:09- 102:12		Admitted in Peterson	
Rogers, Frederick 07/18/2017	106:10- 106:14	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect.	Admitted in Peterson Foundation testimony. The testimony is highly relevant as it is about the witness' research as to the risk/benefits of retrievable IVC filters like the Meridian.	OVERRULED
Rogers, Frederick 07/18/2017	106:18- 106:19	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 401, 402 & 403. Irrelevant and Unfairly prejudicial. Rules 801/802. Testimony is hearsay. Exhibit is hearsay.	Admitted in Peterson Foundation testimony. The document is learned treatise or peroldical and testimony from the document is not hearsay. FRE 803(18). The article is highly relevant as directly addresses the risk/benefit analysis for the retrievable IVC filters like the Meridian filter. It is not unfairly prejudicial.	OVERRULED

Rogers, Frederick 07/18/2017	107:01- 107:13	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 401, 402 & 403. Irrelevant and Unfairly prejudicial. Rules 801/802. Testimony is hearsay. Exhibit is hearsay.	Admitted in Peterson Foundation testimony. The document is learned treatise or peroldical and testimony from the document is not hearsay. FRE 803(18). The article is highly relevant as directly addresses the risk/benefit analysis for the retrievable IVC filters like the Meridian filter. It is not unfairly prejudicial.	OVERRULED
Rogers, Frederick 07/18/2017	108:23- 108:25	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 401, 402 & 403. Irrelevant and Unfairly prejudicial. Rules 801/802. Testimony is hearsay. Exhibit is hearsay.	Admitted in Peterson Testimony is relevant to the risks and general lack of efficacy of the class of products at issue, including and especially the filter at issue. Defendants open the door to such testimony by presenting argument and evidence regarding the life- saving properties of their filters. Further, evidence is relevant to the jury's assessment of the benefits of the filter at issue.	OVERRULED
Rogers, Frederick 07/18/2017	109:05- 109:06	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 401, 402 & 403. Irrelevant and Unfairly prejudicial. Rules 801/802. Testimony is hearsay.	Admitted in Peterson Testimony is relevant to the risks and general lack of efficacy of the class of products at issue, including and especially the filter at issue. Defendants open the door to such testimony by presenting argument and evidence regarding the life- saving properties of their filters. Further, evidence is relevant to the jury's assessment of the benefits of the filter at issue.	OVERRULED

Rogers, Frederick 07/18/2017	110:04- 110:06	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 401, 402 & 403. Irrelevant and Unfairly prejudicial. Rules 801/802.	Admitted in Peterson Testimony is relevant to the risks and general lack of efficacy of the class of products at issue, including and especially the filter at issue. Defendants open the door to such testimony by presenting argument and evidence regarding the life- saving properties of their filters. Further, evidence is relevant to the jury's assessment of the benefits of the filter at issue.	OVERRULED
Rogers, Frederick 07/18/2017	111:18- 112:03	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 401, 402 & 403. Irrelevant and Unfairly prejudicial. Rules 801/802. Testimony is hearsay.	Admitted in Peterson Testimony is relevant to the risks and general lack of efficacy of the class of products at issue, including and especially the filter at issue. Defendants open the door to such testimony by presenting argument and evidence regarding the life- saving properties of their filters. Further, evidence is relevant to the jury's assessment of the benefits of the filter at issue.	OVERRULED
Rogers, Frederick 07/18/2017	112:05- 112:07	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 401, 402 & 403. Irrelevant and Unfairly prejudicial. Rules 801/802.	Admitted in Peterson Testimony is relevant to the risks and general lack of efficacy of the class of products at issue, including and especially the filter at issue. Defendants open the door to such testimony by presenting argument and evidence regarding the life- saving properties of their filters. Further, evidence is relevant to the jury's assessment of the benefits of the filter at issue.	OVERRULED

Rogers, Frederick 07/18/2017	112:12- 112:16	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 401, 402 & 403. Irrelevant and Unfairly prejudicial. Rules 801/802.	Admitted in Peterson Testimony is relevant to the risks and general lack of efficacy of the class of products at issue, including and especially the filter at issue. Defendants open the door to such testimony by presenting argument and evidence regarding the life- saving properties of their filters. Further, evidence is relevant to the jury's assessment of the benefits of the filter at issue.	OVERRULED
Rogers, Frederick 07/18/2017	113:19- 114:23	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 401, 402 & 403. Irrelevant and Unfairly prejudicial. Rules 801/802. Testimony is hearsay.	Admitted in Peterson Testimony is relevant to the risks and general lack of efficacy of the class of products at issue, including and especially the filter at issue. Defendants open the door to such testimony by presenting argument and evidence regarding the life- saving properties of their filters. Further, evidence is relevant to the jury's assessment of the benefits of the filter at issue.	OVERRULED
Rogers, Frederick 07/18/2017	114:25- 115:01	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 401, 402 & 403. Irrelevant and Unfairly prejudicial. Rules 801/802.	Admitted in Peterson Testimony is relevant to the risks and general lack of efficacy of the class of products at issue, including and especially the filter at issue. Defendants open the door to such testimony by presenting argument and evidence regarding the life- saving properties of their filters. Further, evidence is relevant to the jury's assessment of the benefits of the filter at issue.	OVERRULED

Rogers, Frederick 07/18/2017	115:03- 115:06		Admitted in Peterson	
Rogers, Frederick 07/18/2017	117:04- 118:05	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 401, 402 & 403. Irrelevant and Unfairly prejudicial. Rules 801/802. Testimony is hearsay.	Admitted in Peterson Testimony is relevant to the risks and general lack of efficacy of the class of products at issue, including and especially the filter at issue. Defendants open the door to such testimony by presenting argument and evidence regarding the life- saving properties of their filters. Further, evidence is relevant to the jury's assessment of the benefits of the filter at issue.	OVERRULED
Rogers, Frederick 07/18/2017	118:07	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 401, 402 & 403. Irrelevant and Unfairly prejudicial. Rules 801/802. Testimony is hearsay.	Admitted in Peterson Testimony is relevant to the risks and general lack of efficacy of the class of products at issue, including and especially the filter at issue. Defendants open the door to such testimony by presenting argument and evidence regarding the life- saving properties of their filters. Further, evidence is relevant to the jury's assessment of the benefits of the filter at issue.	OVERRULED
Rogers, Frederick 07/18/2017	118:09- 118:12	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 401, 402 & 403. Irrelevant and Unfairly prejudicial.	Admitted in Peterson Testimony is relevant to the risks and general lack of efficacy of the class of products at issue, including and especially the filter at issue. Defendants open the door to such testimony by presenting argument and evidence regarding the life- saving properties of their	OVERRULED

		Rules 801/802. Testimony is hearsay.	filters. Further, evidence is relevant to the jury's assessment of the benefits of the filter at issue.	
Rogers, Frederick 07/18/2017	118:14- 118:15		Admitted in Peterson	
Rogers, Frederick 07/18/2017	118:17- 118:23	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 401, 402 & 403. Irrelevant and Unfairly prejudicial. Rules 801/802. Testimony is hearsay.	Admitted in Peterson Testimony is relevant to the risks and general lack of efficacy of the class of products at issue, including and especially the filter at issue. Defendants open the door to such testimony by presenting argument and evidence regarding the life-saving properties of their filters. Further, evidence is relevant to the jury's assessment of the benefits of the filter at issue.	OVERRULED
Rogers, Frederick 07/18/2017	118:25	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 401, 402 & 403. Irrelevant and Unfairly prejudicial. Rules 801/802. Testimony is hearsay.	Admitted in Peterson Testimony is relevant to the risks and general lack of efficacy of the class of products at issue, including and especially the filter at issue. Defendants open the door to such testimony by presenting argument and evidence regarding the life-saving properties of their filters. Further, evidence is relevant to the jury's assessment of the benefits of the filter at issue.	OVERRULED
Rogers, Frederick 07/18/2017	119:02- 119:05		Admitted in Peterson	

Rogers, Frederick 07/18/2017	119:07 (ending Yes.)	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 401, 402 & 403. Irrelevant and Unfairly prejudicial. Rules 801/802. Testimony is hearsay.	Admitted in Peterson Testimony is relevant to the risks and general lack of efficacy of the class of products at issue, including and especially the filter at issue. Defendants open the door to such testimony by presenting argument and evidence regarding the life- saving properties of their filters. Further, evidence is relevant to the jury's assessment of the benefits of the filter at issue.	OVERRULED
Rogers, Frederick 07/18/2017	119:07- 119:11		Admitted in Peterson	
Rogers, Frederick 07/18/2017	119:13- 119:24	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 401, 402 & 403. Irrelevant and Unfairly prejudicial. Rules 801/802. Testimony is hearsay.	Admitted in Peterson	OVERRULED
Rogers, Frederick 07/18/2017	120:01	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 401, 402 & 403. Irrelevant and Unfairly prejudicial. Rules 801/802. Testimony is hearsay.	Admitted in Peterson Testimony is relevant to the risks and general lack of efficacy of the class of products at issue, including and especially the filter at issue. Defendants open the door to such testimony by presenting argument and evidence regarding the life- saving properties of their filters. Further, evidence is relevant to the jury's	OVERRULED

			assessment of the benefits of the filter at issue.	
Rogers, Frederick 07/18/2017	123:08- 123:11	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 401, 402 & 403. Irrelevant and Unfairly prejudicial. Rules 801/802. Testimony is hearsay.	Admitted in Peterson Testimony is relevant to the risks and general lack of efficacy of the class of products at issue, including and especially the filter at issue. Defendants open the door to such testimony by presenting argument and evidence regarding the life-saving properties of their filters. Further, evidence is relevant to the jury's assessment of the benefits of the filter at issue. Foundation	STRIKE as cumulative
Rogers, Frederick 07/18/2017	123:14- 123:25	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 401, 402 & 403. Irrelevant and Unfairly prejudicial. Rules 801/802. Testimony is hearsay.	Admitted in Peterson Testimony is relevant to the risks and general lack of efficacy of the class of products at issue, including and especially the filter at issue. Defendants open the door to such testimony by presenting argument and evidence regarding the life-saving properties of their filters. Further, evidence is relevant to the jury's assessment of the benefits of the filter at issue.	STRIKE as cumulative

Rogers, Frederick 07/18/2017	124:02	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 401, 402 & 403. Irrelevant and Unfairly prejudicial. Rules 801/802. Testimony is hearsay.	Admitted in Peterson Testimony is relevant to the risks and general lack of efficacy of the class of products at issue, including and especially the filter at issue. Defendants open the door to such testimony by presenting argument and evidence regarding the life-saving properties of their filters. Further, evidence is relevant to the jury's assessment of the benefits of the filter at issue.	STRIKE as cumulative
Rogers, Frederick 07/18/2017	124:04- 124:21	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 401, 402 & 403. Irrelevant and Unfairly prejudicial. Rules 801/802. Testimony is hearsay.	Admitted in Peterson Testimony is relevant to the risks and general lack of efficacy of the class of products at issue, including and especially the filter at issue. Defendants open the door to such testimony by presenting argument and evidence regarding the life-saving properties of their filters. Further, evidence is relevant to the jury's assessment of the benefits of the filter at issue.	STRIKE as cumulative
Rogers, Frederick 07/18/2017	124:22- 125:02		Admitted in Peterson	
Rogers, Frederick 07/18/2017	125:03- 125:06		Admitted in Peterson	
Rogers, Frederick 07/18/2017	125:08- 125:18	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial	Admitted in Peterson Testimony is relevant to the risks and general lack of efficacy of the class of products at issue, including and especially the filter at issue. Defendants open the	OVERRULED

		effect. Rules 401, 402 & 403. Irrelevant and Unfairly prejudicial.	door to such testimony by presenting argument and evidence regarding the life-saving properties of their filters. Further, evidence is relevant to the jury's assessment of the benefits of the filter at issue.	
Rogers, Frederick 07/18/2017	125:19-125:22		Admitted in Peterson	
Rogers, Frederick 07/18/2017	125:25-126:04		Admitted in Peterson	
Rogers, Frederick 07/18/2017	126:06-126:10	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 401, 402 & 403. Irrelevant and Unfairly prejudicial.	Admitted in Peterson Testimony is relevant to the risks and general lack of efficacy of the class of products at issue, including and especially the filter at issue. Defendants open the door to such testimony by presenting argument and evidence regarding the life-saving properties of their filters. Further, evidence is relevant to the jury's assessment of the benefits of the filter at issue.	OVERRULED
Rogers, Frederick 07/18/2017	126:12	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 401, 402 & 403. Irrelevant and Unfairly prejudicial.	Admitted in Peterson Testimony is relevant to the risks and general lack of efficacy of the class of products at issue, including and especially the filter at issue. Defendants open the door to such testimony by presenting argument and evidence regarding the life-saving properties of their filters. Further, evidence is relevant to the jury's	OVERRULED

			assessment of the benefits of the filter at issue.	
Rogers, Frederick 07/18/2017	126:14- 126:16	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 401, 402 & 403. Irrelevant and Unfairly prejudicial.	Admitted in Peterson Testimony is relevant to the risks and general lack of efficacy of the class of products at issue, including and especially the filter at issue. Defendants open the door to such testimony by presenting argument and evidence regarding the life-saving properties of their filters. Further, evidence is relevant to the jury's assessment of the benefits of the filter at issue.	OVERRULED
Rogers, Frederick 07/18/2017	126:19- 126:20	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 401, 402 & 403. Irrelevant and Unfairly prejudicial.	Admitted in Peterson Testimony is relevant to the risks and general lack of efficacy of the class of products at issue, including and especially the filter at issue. Defendants open the door to such testimony by presenting argument and evidence regarding the life-saving properties of their filters. Further, evidence is relevant to the jury's assessment of the benefits of the filter at issue.	OVERRULED
Rogers, Frederick 07/18/2017	126:22- 127:01	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 401, 402 &	Admitted in Peterson Testimony is relevant to the risks and general lack of efficacy of the class of products at issue, including and especially the filter at issue. Defendants open the door to such testimony by	OVERRULED

		403. Irrelevant and Unfairly prejudicial.	presenting argument and evidence regarding the life-saving properties of their filters. Further, evidence is relevant to the jury's assessment of the benefits of the filter at issue.	
DEPONENT	DEF COUNTER	PL OBJECTIONS	DEF RESPONSE TO OBJECTIONS	COURT RULING
Rogers, Frederick 07/18/2017	102:02-102:07			
Rogers, Frederick 07/18/2017	102:09-102:12			
Rogers, Frederick 07/18/2017	110:21-110:24			
Rogers, Frederick 07/18/2017	111:01-111:12			
Rogers, Frederick 07/18/2017	115:03-115:06			
Rogers, Frederick 07/18/2017	119:07-119:11	non-responsive after "yes"	Witness is merely providing a complete response to Plaintiff's counsel's questioning. The testimony is directly responsive to the question presented.	OVERRULED
Rogers, Frederick 07/18/2017	120:03-120:07			
Rogers, Frederick 07/18/2017	120:09-120:21			

Rogers, Frederick 07/18/2017	120:23- 121:05			
Rogers, Frederick 07/18/2017	124:22- 125:02			
Rogers, Frederick 07/18/2017	125:19- 125:22			
Rogers, Frederick 07/18/2017	125:25- 126:04			
Rogers, Frederick 07/18/2017	127:03- 127:05	Outside the scope of direct	This is questioning performed by Plaintiff's counsel, and which is within the scope of the use of filters and anticoagulation in trauma patients.	OVERRULED
Rogers, Frederick 07/18/2017	127:07- 127:14	Outside the scope of direct	This is questioning performed by Plaintiff's counsel, and which is within the scope of the use of filters and anticoagulation in trauma patients.	OVERRULED
Rogers, Frederick 07/18/2017	127:16- 128:02	Calls for speculation; outside the scope of direct	This is questioning performed by Plaintiff's counsel, and which is within the scope of the use of filters and anticoagulation in trauma patients.	OVERRULED

Accordingly, IT IS ORDERED that the parties' request for rulings on objections to certain designations is GRANTED, and the objections are sustained in part and overruled in part as provided above.

Entered this 4th day of June, 2021.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge